

October 20, 2013

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re:

Case No. 12-12020 (MG)

RESIDENTIAL CAPITAL, LLC, et al.,

Chapter 11

Debtors.

Jointly Administered

RE: GMAC Mortgage/Ally Financial

Loan: #7434264057

SS # 437-84-4544

ResCap Claim Number: 2024

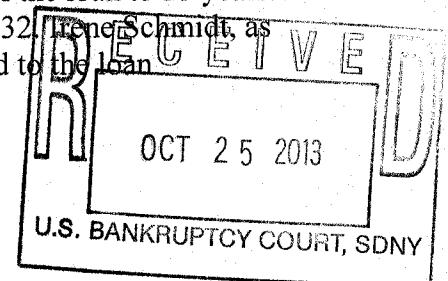
Property owner: Irene Schmidt

To Whom It May Concern:

In response to your Notice from September 23, 2013, I'd like to let you know that I oppose your objection that Liability Not Reflected in Debtor's Books and Records.

The amount of \$245,241.48 is the compensatory damages, which Irene Schmidt incurred as a result of GMAC Mortgage fraudulent actions of modifying her loan (tortuous action); irresponsibly distributing insurance issued funds (tortuous action); and still holding insurance funds issued by the insurance company (tortuous action). There is a tort case pending against GMAC Mortgage in regards to all these actions, No 716-448, in 24<sup>th</sup> Judicial District Court for the Parish of Jefferson State of Louisiana, which has been stayed because GMAC Mortgage filed for bankruptcy.

Irene Schmidt has submitted a letter to this court, dated July 16, 2013 (see attached), where she describes the basis for her claim. GMAC Mortgage directly harmed Irene Schmidt financially. Irene Schmidt had paid over \$183,600.00 over the course of 9 years to GMAC Mortgage (2002-2011). The records reflect that GMAC received these payments and kept them. In July 2011, GMAC Mortgage and the second mortgage holder (Douglas Schmidt), signed a loan modification agreement without Irene Schmidt's knowledge or agreement. The new agreement extended the length of the loan to 35 years. The loan new maturity date is January 1, 2046, instead of July 1, 2032. Irene Schmidt, as the mortgage holder and the owner of the property, has never agreed to the loan



modification. Her rights as the property owner have been violated by GMAC Mortgage by signing the agreement with just Douglas Schmidt. Starting in 2011, after the modification, Irene Schmidt has to make the mortgage payments again, as if nothing has been paid to GMAC . All the payments made for over 9 years to GMAC Mortgage have been lost.

Insurance issued funds (Hurricane Katrina damages): \$38,457.75

Basis for the claim:

The insurance companies issued funds to have the property repaired.

The homeowners insurance included my name (Irene Schmidt) on the insurance proceeds check. The wind-related repairs have been completed with the proceeds.

The flood-related insurance proceeds were transferred to GMAC Mortgage by the insurance company, to disburse to the homeowners. GMAC Mortgage failed to add Irene Schmidt as a payee when they issued the flood insurance proceeds checks (for \$38,457.75). Irene Schmidt did not receive any money and has been unable to make any flood-related repairs. She sent several letters to GMAC Mortgage, informing them that she did not receive any flood-related insurance proceeds, but they ignored the letters.

Insurance issued funds:

- Hurricane Isaac related claim: \$9,091.39 (held in escrow by GMAC)
- Hurricane Katrina related claim: \$17, 433.68 (held in escrow by GMAC)
- Homeowners' claim: \$1644.31 (held in escrow by GMAC)


At present time GMAC Mortgage is keeping the insurance proceeds in escrow account, not releasing any funds to me, which is making it impossible to make repairs on my property.

**Summary of the claim:**

Claim related to the fraudulent loan modification: \$183,600.00  
Insurance issued funds (Hurricane Katrina damages): \$38,457.75  
Hurricane Isaac related claim: \$9,091.39 (held in escrow by GMAC)  
Hurricane Katrina related claim: \$17, 433.68 (held in escrow by GMAC)  
Homeowners' claim: \$1644.31 (held in escrow by GMAC)  
Total: \$245,241.48

Please, satisfy this claim so that I would not have to take further action against GMAC Mortgage in court. If you have any questions in regards to reconciling, settling or otherwise resolving this claim, please, contact me at the address and phone number below.

Respectfully Yours,

  
Irene Schmidt

3608 Wanda Lynn Drive  
Metairie, LA 70002  
Ph # (504)236-2623

July 16, 2013

RE: GMAC Mortgage/Ally Financial  
Loan: #7434264057  
SS # 437-84-4544  
ResCap Claim Number: 2024

To Whom It May Concern:

In response to your letter from June 21, 2013, I'd like to let you know that the basis for and amount of the claim contained in the Proof of Claim form are the same as the claim we asserted in our lawsuit against GMAC Mortgage/Ally Financial. The lawsuit is pending in 24<sup>th</sup> Judicial District Court of Jefferson Parish, LA. The case number is 716448.

The amount GMAC Mortgage/Ally Financial owes me is:

1. Claim related to the fraudulent loan modification: \$183,600.00

In 2002, the loan was taken out for 30 years, with the date of maturity of July 2032. From 2002-2011 the borrower paid \$183,600.00 in monthly mortgage payments.

When the property was purchased, in 2002, both I and my ex-husband signed the Mortgage. I have been on the title from the day of purchase of this property.

In July 2011, GMAC Mortgage and the second mortgage holder (Douglas Schmidt) signed a loan modification agreement without my knowledge or agreement. The new agreement extended the length of the loan to 35 years. The loan new maturity date is January 1, 2046, instead of July 1, 2032.

The basis for the fraudulent loan modification claim is that from July 2002 till April 2010 the borrower paid GMAC Mortgage \$183,600.00 in monthly mortgage payments, which GMAC Mortgage took and kept. I, as the mortgage holder and the owner of the property, have never agreed to the loan modification. My rights as the property owner have been violated by GMAC Mortgage and I incurred financial damages in the above-mentioned amount. Starting in 2011, after the modification, I have to make the mortgage payments again, as if nothing has been paid to GMAC

2. Insurance issued funds (Hurricane Katrina damages): \$38,457.75

Basis for the claim:

The insurance companies issued funds to have the property repaired.

The homeowners insurance included my name (Irene Schmidt) on the insurance proceeds check. The wind-related repairs have been completed with the proceeds.

The flood-related insurance proceeds were transferred by the insurance company

to GMAC Mortgage, to disburse to the homeowners. GMAC Mortgage failed to add me (Irene Schmidt) as a payee when they issued the flood insurance proceeds checks (for \$38,457.75). I did not receive any money and have been unable to make any flood-related repairs. I sent several letters to GMAC Mortgage, informing them that I did not receive any flood-related insurance proceeds, but they ignored the letters.

**3. Insurance issued funds:**

- Hurricane Isaac related claim: \$9,091.39 (held in escrow by GMAC)
- Hurricane Katrina related claim: \$17,433.68 (held in escrow by GMAC)
- Homeowners' claim: \$1644.31 (held in escrow by GMAC)

At present time GMAC Mortgage is keeping the insurance proceeds in escrow account, not releasing any funds to me, which is making it impossible to make repairs on my property.

**Summary of the claim:**

Claim related to the fraudulent loan modification: \$183,600.00  
Insurance issued funds (Hurricane Katrina damages): \$38,457.75  
Hurricane Isaac related claim: \$9,091.39 (held in escrow by GMAC)  
Hurricane Katrina related claim: \$17,433.68 (held in escrow by GMAC)  
Homeowners' claim: \$1644.31 (held in escrow by GMAC)  
Total: \$248,582.82



Irene Schmidt

**Attachments:**

Mortgage payments made on the loan for the period of 09/2008-09/2011  
Mortgage  
Loan Modification Agreement  
Estimate of Damages